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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/532,436	08/09/2006	Douglas P. Zittel	1312US4	9138

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GRACO MINNESOTA INC  
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EXAMINER
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NGUYEN, DINH Q

ART UNIT	PAPER NUMBER
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3752

MAIL DATE	DELIVERY MODE
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01/09/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

Application No.

10/532,436

Applicant(s)

ZITTEL ET AL.

Examiner

Dinh Q. Nguyen

Art Unit

3752

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 25 October 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1,2 and 7-23 is/are pending in the application.
- 4a) Of the above claim(s) 2 and 14-19 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,7-13 and 20-23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 7/26/05 & 3/29/07.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Claims 2, 14-19 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention and Species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on October 25, 2007.

### ***Drawings***

2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: air passage 1a in page 5, line 1; the purge air passage 8a in page 6, line 22. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Specification***

3. The disclosure is objected to because of the following informalities: the following limitations of claim 11 are not clearly disclosed in the specification as such: "a fluid

manifold" and "first and second fluid valves", similarly the limitation "air valve" of claim 7 is not clearly disclosed in the specification.

Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5. Claims 1, 7-13, 20-23 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The claim(s) are narrative in form and replete with indefinite and functional or operational language, failing to conform to current U.S. practice. The claims and the specification appear to be a list of the elements of the invention without a clear explanation of each element's placement and operational relationships with other elements. The structure must be organized and correlated in such a manner as to present a complete operative device. Applicant is advised to completely review the claims and the specification for the discrepancies. In claim 12, line 2, "a clean off air passage" is not disclosed in the specification. In claim 7, the limitation "air valve" of claim 7 is not disclosed in the specification. In claim 8 the limitation "said air valve engages said gun body with no more than three seals" is not disclosed in the specification. In claim 13, "the limitation "zerk fitting" is not disclosed in the specification

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 21 and 22 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 21 and 22 recite the limitation "said hardened material is stainless steel" in line 2. There is insufficient antecedent basis for this limitation in the claim.

8. For the purpose of this Office action, the claims will be examined as best understood by the examiner.

***Claim Rejections - 35 USC § 102***

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

10. Claims 1, 7, 10, 12, 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Schaefer as best understood by the examiner.

Schaefer discloses a spray gun 10 for fast setting plural component materials, said spray gun 10 comprising: a gun body 16, an air cap 30, a fluid housing 22 removably attached to said gun housing 16, the fluid housing 22 having a threaded surface (not numbered) for threadedly receiving said air cap 30 (see column 3, line 15) and generally opposed first and second radial ports 46 and 47 in said threaded surface

(see figure 2), first and second seal cartridges 44 and 45 retained in said ports 46 and 47 by friction of the threaded portion and said air cap, an air valve 40 in the gun body, a piston 20 located in a passage 64 in the interior of the gun body a plurality of air passages 58 (a second air passage is related to air passage of the trigger valve) connecting said air valve and said interior, each of said passages being straight and accessible by line of sight from outside said gun body, an o-ring seal 34 for sealing the fluid manifold, a mixing chamber 40 with a tip 53 and a clean off air passage 58.

***Claim Rejections - 35 USC § 103***

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claims 8, 21 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schaefer as best understood by the examiner.

Schaefer teaches all the limitations of the claims except for the three seals and the hardened material of stainless steel, it would have been an obvious matter of design choice to a person of ordinary skill in the art to provide the device of Schaefer with the three seals and the hardened material of stainless steel, because Application has not disclosed that the three seals and the hardened material of stainless steel provides an advantage, is used for a particular purpose, or solves a stated problem. One of ordinary skill in the art, furthermore, would have expected Applicant's invention to perform equally well with either claimed characteristics or the Schaefer characteristics.

Therefore, it would have been an obvious matter of design choice to modify the device of Schaefer to obtain the invention as specified in claims 8, 21 and 22.

13. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Schaefer in view of Keller as best understood by the examiner.

Schaefer teaches all the limitations of the claims except for a muffler in the gun body. However, Keller discloses a spray gun having a gun body 24 with a muffler 33 attached therein. Therefore, it would have been obvious to one having ordinary skill in the art to have provided the device of Schaefer with a muffler as suggested by Keller. Doing so would provide a way to regulate air pressure within the spray gun (see column 3, lines 10+).

14. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Schaefer in view of Levy as best understood by the examiner.

Schaefer teaches all the limitations of the claims except for a one piece stem and a seal. However, Levy discloses a spray gun 10 for fast setting plural component materials having a fluid manifold body 12 and first and second fluid valves that each having a one piece stem 54 and a seal 50 for sealing engaging the body 12 (see figure 3). Therefore, it would have been obvious to one having ordinary skill in the art to have provided the device of Schaefer with a one piece stem and a seal as suggested by Levy. Doing so would provide a way for adjusting and controlling fluid flow.

15. Claim 13 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schaefer in view of Ten Pas as best understood by the examiner.

Schaefer teaches all the limitations of the claims except for a grease fitting. However, Ten Pas discloses a spray gun 10 for fast setting plural component materials having a purge air passage 256, and a grease fitting 44 (see figure 2). Therefore, it would have been obvious to one having ordinary skill in the art to have provided the device of Schaefer with a grease fitting as suggested by Ten Pas. Doing so would provide a way to provide lubrication for the spray gun.

### ***Conclusion***

16. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following patents are cited to show the art with respect to a spray gun for fast setting plural component materials: Keryluk et al., Decker, and Bert.

17. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dinh Q. Nguyen whose telephone number is 571-272-4907. The examiner can normally be reached on Monday-Thursday 6:00-4:30.

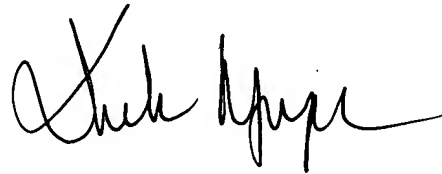
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Shaver can be reached on 571-272-4720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

A handwritten signature in black ink, appearing to read 'Dinh Q. Nguyen', with a stylized, cursive script.

Dinh Q. Nguyen  
Primary Examiner  
Art Unit 3752

dqn